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**THE BACKCHANNEL**

# Former Gov. Phil Bryant helped Brett Favre secure welfare funding for USM volleyball stadium, texts reveal

*Never-before-seen text messages show former Gov. Phil Bryant tried to shepherd a proposal to use welfare funds on the construction of a new volleyball stadium for retired NFL player Brett Favre – a project prosecutors have called a scheme to defraud the government. Bryant has previously denied any involvement with the project, which has emerged as the centerpiece of a massive criminal scandal in which prominent officials misspent or stole millions in welfare funds intended for the nation's poorest residents.*



by **Anna Wolfe**

September 13, 2022

**Exhibit M**



Gov. Phil Bryant ponders a response to a question regarding his legacy following a life of public service, while sitting in his Jackson, Miss., Capitol office, Jan. 8, 2020. (AP Photo/Rogelio V. Solis)



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Text messages entered Monday into the state’s ongoing civil lawsuit over the welfare scandal reveal that former Gov. Phil Bryant pushed to make NFL legend Brett Favre’s volleyball idea a reality.

The texts show that the then-governor even guided Favre on how to write a funding proposal so that it could be accepted by the Mississippi Department of Human Services – even after Bryant ousted the former welfare agency director John Davis for suspected fraud.

“Just left Brett Favre,” Bryant texted nonprofit founder Nancy New in July of 2019, within weeks of Davis’ departure. “Can we help him with his project. We should meet soon to see how I can make sure we keep your projects on course.”

When Favre asked Bryant how the new agency director might affect their plans to fund the volleyball stadium, Bryant assured him, “I will handle that... long story but had to make a change. But I will call Nancy and see what it will take,” according to the filing and a text Favre forwarded to New.

The newly released texts, filed Monday by an attorney representing Nancy New’s nonprofit, show that Bryant, Favre, New, Davis and others worked together to channel at least \$5 million of the state’s welfare funds to build a new volleyball stadium at University of Southern Mississippi, where Favre’s daughter played the sport. Favre received most of the credit for raising funds to construct the facility.

Bryant has for years denied any close involvement in the steering of welfare funds to the volleyball stadium, though plans for the project even included naming the building after him, one text shows.

New, a friend of Bryant’s wife Deborah, ran a nonprofit that was in charge of spending tens of millions of flexible federal welfare dollars outside of public view. What followed was the biggest public fraud case in state history, according to the state auditor’s office. Nonprofit leaders had misspent at least \$77 million in funds that were supposed to help the needy, forensic auditors found.

New pleaded guilty to 13 felony counts related to the scheme, and Davis awaits trial. But neither Bryant nor Favre have been charged with any crime.

And while the state-of-the-art facility represents the single largest known fraudulent purchase within the scheme, according to one of the criminal defendant’s plea agreement, the state is not pursuing the matter in its ongoing civil complaint. Current Gov. Tate Reeves abruptly fired the attorney bringing the state’s case when he tried to subpoena documents related to the volleyball stadium.

The messages also show that a separate \$1.1 million welfare contract Favre received to promote the program – the subject of many national headlines – was simply a way to get more funding to the volleyball project.

“I could record a few radio spots,” Favre texted New, according to the new filing. “...and whatever compensation could go to USM.”

August 3, 2017

If you were to pay me is there anyway the media can find out where it came from and how much?

Brett Favre, 4:35 PM

No, we never have had that information publicized. I understand you being uneasy about that though. Let's see what happens on Monday with the conversation with some of the folks at Southern. Maybe it will click with them. Hopefully.

Nancy New, 6:26 PM

Ok thanks

Brett Favre, 6:59 PM

August 4, 2017

Wow, just got off the phone with Phil Bryant! He is on board with us! We will get this done!

Nancy New, 1:20 PM

Awesome I needed to hear that for sure

Brett Favre, 1:21 PM

New, who is now aiding prosecutors as part of her plea deal, alleged that Bryant directed her to make the payment to Favre in a bombshell response to the complaint in July.

The allegation and defense “are not based on speculation or conjecture,” the Monday court filing reads. “The evidence suggests that MDHS Executives, including Governor Bryant, knew that Favre was seeking funds from MDHS to build the Volleyball Facility ... and participated in directing, approving, or providing Favre MDHS funds to be used for construction of the Volleyball Facility.”

The latest motion, filed on behalf of New’s nonprofit Mississippi Community Education Center, represents the first time these messages, which include texts directly between New and Bryant and New and Favre, have been made public. The messages are printed here exactly as they appear in the filing without corrections.

In July, the attorney for New and the nonprofit, Gerry Bufkin, **filed a subpoena on Bryant** asking for the former governor’s communication related to the volleyball project.

On Aug. 26, Bryant's recently-hired attorney Billy Quin wrote a letter objecting to the subpoena, refusing to turn over the records without a protective order. Quin argued that Bryant's texts are protected by executive privilege and that producing them to the public would run afoul of existing gag orders in the criminal cases.

Bufkin's latest motion includes texts that the attorney picked, not entire text threads, and may only reflect one side of the story. In a short statement to Mississippi Today for this story, Bryant didn't offer an explanation for his communication.

"(The New defense team's) refusal to agree to a protective order, along with their failure to convey the Governor's position to the court, unfortunately shows they are more concerned with pretrial publicity than they are with civil justice," Bryant said.

Bufkin's motion asks for the court to compel Bryant to produce the documents, arguing they are central to New's defense.

"Defendant reasonably relied on then-Governor Phil Bryant, acting within his broad statutory authority as chief executive of the State," reads New's July response to the complaint, "including authority over MDHS and TANF, and his extensive knowledge of Permissible TANF Expenditures from 12 years as State Auditor, four years as Lieutenant Governor, and a number of years as Governor leading up to and including the relevant time period."

Bufkin told Mississippi Today that the governor's involvement in building the volleyball stadium, suggested by the text messages, "lends an air of credibility to the project, which is important to our defenses."

"We do not believe a protective order shielding the Governor's documents from public view, and thus limiting our ability to use them in open court or public pleadings in support of our defenses, is appropriate," Bufkin said.

Federal regulations prohibit states from using money from the welfare program, called Temporary Assistance for Needy Families (TANF), on "brick and mortar," or the construction of buildings.

The scheme to circumvent federal regulations in order to build the volleyball stadium has already resulted in a criminal conviction.

New's son Zach New admitted in his April plea agreement to defrauding the government when he participated in a scheme "to disguise the USM construction project as a 'lease' as a means of circumventing



the limited purpose grant’s strict prohibition against ‘brick and mortar’ construction projects in violation of Miss. Code Ann. 97-7-10.”

Favre’s attorney Bud Holmes denied that the athlete knew the money he received was from the welfare fund. “Brett Favre has been honorable throughout this whole thing,” Holmes said Monday.

When Mississippi Today asked Favre by text in 2020 if he had discussed the volleyball project with the governor, Favre said, simply: “No.”



Former NFL football player Brett Favre, welfare officials and University of Southern Mississippi staffers met in July of 2017 to discuss the welfare agency funding the construction of a multi-million dollar volleyball stadium on campus. From left to right, attendees of the gathering were former professional wrestler Ted “Teddy” DiBiase, MDHS deputy Garrig Sheilds, then-USM Director of Athletics Jon Gilbert, Mississippi Community Education Center founder Nancy New, then-MDHS Director John Davis, Favre, another university athletics staffer Daniel Feig and Zach New. Credit: Hinds County Circuit Court

The motion filed Monday offers a detailed look at the earliest days of the planning of the USM volleyball center between Favre, New, Davis and other key players — a chronology that had not up to this point been publicly revealed.

Favre first asked for funding from Mississippi Department of Human Services during a July 24, 2017, meeting at USM with New, Davis, university athletic staff and others, according to the motion.

By this time, the University of Southern Mississippi and the Southern Miss Athletic Foundation, which would pay for the construction, had already made some progress on Favre's idea. On July 1, according to records, the university leased its athletic facilities and fields to the foundation for \$1, which made it possible for the foundation to lease the facilities to the New nonprofit for \$5 million.

Because of the strict prohibition on using TANF funds to pay for construction, the parties had to craft an agreement that would look to satisfy federal law and give the illusion they were helping needy families. With the help of legal advice from MDHS attorneys, they came up with the idea for New's nonprofit to enter a \$5 million up-front lease of the university's athletic facilities, which the nonprofit would purportedly use for programming. And in exchange, the foundation would include offices for the nonprofit inside the volleyball facility, which they called a "Wellness Center."

Davis immediately committed \$4 million to the project, according to the motion.

"While Favre was pleased with MDHS's \$4 million commitment, he knew a state-of-the-art Volleyball Facility was likely to cost more," the filing reads. "To make matters worse, USM apparently had a policy that any construction project on campus had to be funded fully, and the money deposited in USM's account, before construction could begin."

Favre thought of a way to get some extra cash to the program: even more money could flow through his company in exchange for the athlete cutting ads for the state's welfare program. New said she thought it was a good idea.

"Was just thinking that here is the way to do it!!" Favre texted.

Only days after Favre received the financial commitment from Davis, he "had grown impatient with USM, which was moving slowly. Favre contacted Governor Bryant to speed things along. In response, Governor Bryant called Nancy New," the motion reads.

“Wow,” New texted Favre, “just got off the phone with Phil Bryant! He is on board with us! We will get this done!”

The governor remained in tune on the project as it progressed. On Nov. 2, 2017, New texted Favre, “I saw the Gov last night ... it’s all going to work out.”

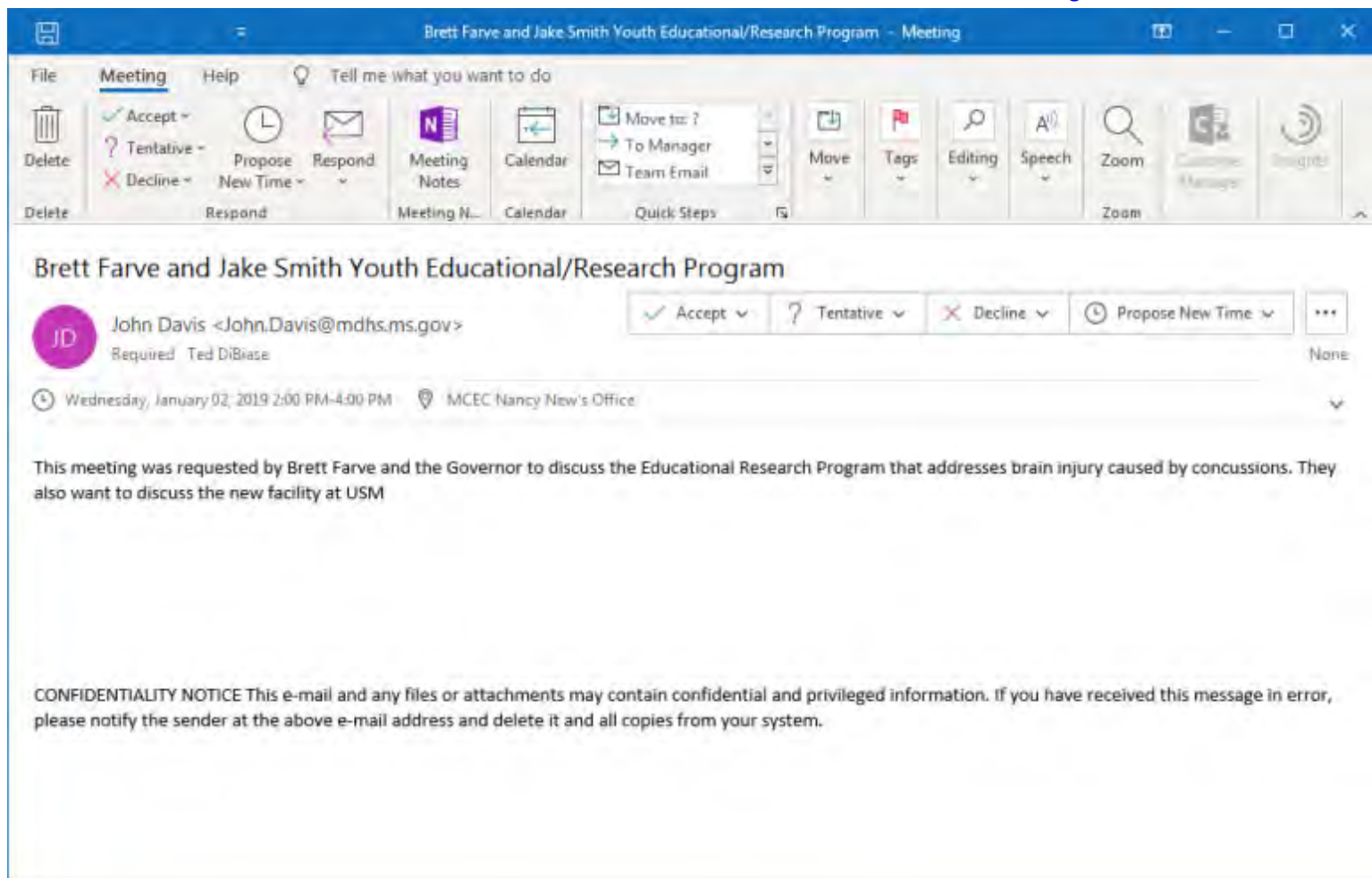
Four days later, New’s nonprofit paid the first lump sum of \$2.5 million. It paid another \$2.5 million on Dec. 5, 2017, according to the state auditor’s office report released in 2020. Favre also received his first payment under the advertising agreement of \$500,000 in December 2017.

“Nancy Santa came today and dropped some money off,” Favre texted New that day, “thank you my goodness thank you. We need to setup the promo for you soon. Your way to kind.”

The nonprofit paid the athlete another \$600,000 in June 2018.

By 2019, as the cost of construction for the volleyball center grew and Favre had committed to pay more than \$1 million himself that he expected to receive from MDHS, the athlete became antsy. According to a [calendar entry entered by Davis](#), Bryant and Favre requested to meet with welfare officials about the USM facility in January of 2019.





An emailed calendar invite obtained by Mississippi Today shows Mississippi Department of Human Services Director John Davis invited his colleague, former wrestler Ted DiBiase, to meet at Nancy New's office to discuss topics of interest to Brett Favre and the governor.

Favre nudged the welfare officials who promised to help, but the state agency and nonprofits were in financial turmoil. Months went by with no USM payments.

In June of 2019, Bryant ousted Davis after an MDHS employee came forward with a tip about suspected fraud. Bryant replaced Davis with former FBI Special Agent in Charge Christopher Freeze.

When Favre asked Bryant if Davis' departure would affect the project, according to the motion, the governor responded, "I will handle that... long story but had to make a change. But I will call Nancy and see what it will take."

"Just left Brett Favre," Bryant then texted New. "Can we help him with his project. We should meet soon to see how I can make sure we keep your projects on course."

Later that day, New texted Favre to tell him that she would be meeting with the governor in two days.

“He wants me to continue to help you and us get our project done,” she said.

With the new guard in place at the top of the welfare agency, Favre and New tried to put together a proposal for more volleyball funding that would pass the smell test. Part of their plan was to put Bryant’s name on the building, according to one text from New to Favre. Favre relayed to New that Bryant said New would have to submit proper paperwork to MDHS.

“While the Governor’s text to Favre said New needed to ‘get the paperwork in,’ the Governor confided to Favre on a call that he had already seen Favre’s proposal. Favre texted New, ‘[the Governor] said to me just a second ago that he has seen [the funding proposal] but hint hint that you need to reword it to get it accepted,’ reads New’s motion.

New had questions about how to reword the proposal, but instead of having a conversation directly with the governor, she relied on what the governor would tell Favre, the texts show.

“Hopefully she can put more details in the proposal,” Bryant said, according to a text Favre forwarded to New. “Like how many times the facility will be used and how many child will be served and for what specific purpose.”

Favre later texted, “I really feel like he is trying to figure out a way to get it done without actually saying it.”

Favre, New, Bryant and Freeze met in September 2019 to discuss progress on the new facility.

Though the texts illustrate the governor’s support for the program around that time, Bryant said in an April 2022 interview with Mississippi Today that he rejected the request from New and Favre fund the project further.

“I stood up and I said, ‘No,’” Bryant told Mississippi Today. “... I remember a meeting with Nancy New and Chris (Freeze), and maybe it was another one, and me. And she came in one more time, ‘Volleyball, volleyball.’ And she said, ‘My budgets have been cut and I can’t do all of these things ... And that’s another thing: ‘Budgets are cut,’ so I’m thinking somebody’s watching over spending. And then she said, ‘And oh, by the way, can we have the money for the volleyball?’ And I said, ‘No. No, we’re not spending anything right now. That is terminated.’”

Two days after the meeting, New received a letter from the welfare agency informing her that the agency was increasing her TANF subgrant by \$1.1 million, which the letter said was for the purpose of reimbursing payments the nonprofit made to its partners.

Under Freeze, MDHS reinstated its bid process for TANF subgrants. Though New's nonprofit was under investigation, and had been raided by the auditor's office months earlier, the welfare agency notified New in December of 2019 that she had won another grant for the coming year. That month, Bryant texted New to ask if she had received the award.

"Yes, we did," New responded to the former governor. "From all the craziness going on, we had been made to believe we were not getting refunded. But we did. 'Someone' was definitely pulling for us behind the scenes. Thank you."

Bryant responded with a smiley face.

December 18, 2019

Did y'all get any Of the new programs from DHS.?

Phil Bryant, 5:05 AM

Yes, we did. From all the craziness going on, we had been made to believe we were not getting refunded. But we did. "Someone" was definitely pulling for us behind the scenes. Thank you.

Nancy New, 5:08 AM



Phil Bryant, 5:08 AM

In early 2020, as funding to the nonprofits slowed and Bryant entered the waning days in his final term as governor, Favre and state officials scrambled to come up with the funds to finish the USM volleyball project. Communication obtained by Mississippi Today shows that another state agency that had been receiving grants from the welfare department joined talks of funding the remainder of the construction.

New sent Favre's funding request to Andrea Mayfield, then-director of the Mississippi Community College Board.

"I am at a loss right now," New wrote, "and am honestly trying to save coworkers' jobs, too. Are we closer on a lease, etc. for him. Sorry to have to ask this as I know everybody is doing everything they can. Thank y'all."

Mayfield proposed having the USM athletic foundation front the \$556,000 that the builders needed, and then be reimbursed by various state agencies through monthly rent payments.

“I can work each agency to execute a contract. Once they execute a contract with me, I can quickly execute with MCEC. I am sorry it is taking time. I am at the mercy of each partners schedule. Thoughts?” Mayfield texted USM Athletic Director Jeremy McClain, according to the message she forwarded to New and Favre.

“Let me know,” Favre responded, “and we have a few weeks until it’s finished. If need be Deanna and I will just pay it. If the university will at least Agree on a deal maybe we can get some funding fairly quickly.”

It’s unclear if any more federal grants went to Favre or the athletic foundation after this point.

**B**ufkin isn’t the only person who has subpoenaed the former governor’s communication related to the volleyball project. Attorney Brad Pigott, who originally represented the state’s welfare department in the civil suit, also subpoenaed the athletic foundation for its communication with Bryant or his wife Deborah Bryant – and was fired from the case as a result.

Pigott previously called the \$5 million agreement between the New nonprofit and the athletic foundation “a sham, fraudulent, so-called lease agreement” in which the parties pretended that the purpose of the deal was for the nonprofit to provide services at the facilities, “all of which was a lie,” Pigott said.

Pigott said he believed his firing was political. Reeves and his current welfare agency director have waffled on their reason for terminating Pigott.

The state’s civil case, which seeks to recoup \$24 million from 38 people or organizations, appears to have slowed since Pigott’s firing. The athletic foundation is not named as defendant and the volleyball stadium is not discussed once in the complaint. The state canceled and has not rescheduled several depositions that were supposed to take place this month — including one with Favre.

“People are going to go to jail over this, at least the state should be willing to find out the truth of what happened,” Pigott told Mississippi Today after his firing in July.

It’s unclear how the athletic foundation has responded, if at all, to either Bufkin or the state’s subpoena, as no related filings appear in the case file. Letters objecting to subpoenas, such as Bryant’s, are not entered into court. If a subpoenaed entity produces documents as requested, those documents could also go directly to the requesting parties and would not appear in the public court file.



The FBI is still investigating the welfare scandal, but officials haven't publicly indicated which figures they might be pursuing. President Joe Biden recently nominated Todd Gee to serve as U.S. attorney for the Southern District of Mississippi, a position that has been vacant for nearly two years. Gee, a Vicksburg native, will inherit the welfare investigation in his new job after serving as the deputy chief of the Public Integrity Section of the U.S. Department of Justice since 2018.

Gee previously served as lead counsel for the House Homeland Security Committee under chair U.S. Rep. Bennie Thompson, who in July wrote a letter to U.S. Attorney General Merrick Garland asking the U.S. Department of Justice to investigate Bryant's role in the welfare scheme.

Shad White, the state auditor who originally investigated the case, was appointed by and formerly served as a campaign manager for Bryant. Shortly after his office arrested New, Davis and four others for their alleged roles in the scheme, White publicly called Bryant the whistleblower in the case.

Asked on Monday how he would characterize Bryant's role in the scandal now, White said, "I wouldn't because we don't know everything that's going to come out ultimately."

"I would just let the public decide how they interpret his actions over the course of that entire thing," White said. "You know, really, if you think back about the corpus of events here that happened, a lot of it has been put out in the news. And so I think anybody who's reading the newspaper can look at that and say, 'OK, people at DHS did this right, and they did this wrong. People in the governor's office did this right, and they did that wrong.' And they can decide."

"That's not for me to decide what somebody's legacy is," White added.

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